

REMARKS/ARGUMENTS

In the Office Action, the Examiner rejected claims 8 and 24 under the second paragraph of 35 U.S.C. 112; rejected claims 1-5, 7-9, 11, 17-21, 23-25, 27, and 33-39 under 35 U.S.C. 102(e) as being anticipated by *Ketcham et al.* (U.S. Pat. No. 6,721,334) or under 35 U.S.C. 103(a) as being unpatentable over *Ketcham et al.* in view of *Buchholz et al.* (U.S. Pat. No. 5,440,545); rejected claims 6, 13-16, 22, and 29-32 under 35 U.S.C. 103(a) as being unpatentable over *Ketcham et al.* in view of *Borella et al.* (U.S. Pat. No. 6,643,259); rejected claims 10 and 26 under 35 U.S.C. 103(a) as being unpatentable over *Ketcham et al.* in view of *Mulligan* (U.S. Pat. No. 6,212,190); rejected claims 12 and 28 under 35 U.S.C. 103(a) as being unpatentable over *Ketcham et al.* in view of *Chapman et al.* (U.S. Pat. No. 6,246,684). The rejections are fully traversed below. Reconsideration of the application is respectfully requested based on the following remarks.

Claims 1-4, 8, 13, 17-20, 24, 29, 33, and 35-39 have been amended to further clarify the claimed subject matter. Support for the amendments can be found in Figs. 2, 3A, 3B, 4, 6, 8, and elsewhere in the specification. Accordingly, claims 1-39 remain pending in this application.

REJECTION OF CLAIMS 8 AND 24 UNDER 35 U.S.C. 112, 2ND PARAGRAPH

Claims 8 and 24 has been amended to correct the limitations as noted by the Examiner in the Office Action. Therefore, it is respectfully submitted that the rejections to claims 8 and 24 under the second paragraph of 35 U.S.C. 112 be withdrawn.

PATENTABILITY OF CLAIMS 1-39

Claim 1 pertains to a method for combining data segments. Claim 1 requires among other things that "at the combiner node, combining and buffering the received data segments with previously buffered data segments from the first node, if present, until a first condition other than an expiration of a timer is met" and "at the combiner node, sending at least a portion of the combined data segments to the second node when the first condition is met." Claims 17, 33, and 35 require a similar limitation.

One of the many advantages of the present invention is to allow the combiner node/router/combining device to send at least a portion of the combined data segments under different conditions. As shown in Fig. 2, three different conditions (i.e., 204, 208, or 212) can each cause the sending of combined data segments to the destination.

In contrast, *Ketcham et al.* does not disclose “sending at least a portion of the combined data segments ... when the first condition [other than an expiration of a timer] is met.” *Ketcham et al.* discloses a router 308 that receives a first packet over a packet based network; determines whether the first packet is on a route that supports aggregate packets; waits a predetermined period for a second packet that shares at least one common route element that also supports aggregate packets with the first packet; sends the first packet to the destination using the first route if the predetermined period expires before receiving the second packet; and creates an aggregate packet including the first packet and the second packet if the second packet is received before the predetermined period expires. (See Abstract; Fig. 3 and Fig. 4) That is, *Ketcham et al.* merely discloses sending first and second packets (i.e., at least a portion of the combined data segments) when the predetermined period expires (i.e., expiration of a timer).

To further elaborate, *Ketcham et al.* states that “[t]he number of packets combined into a single aggregate packet is limited primarily by the maximum packet size in the network and the timer. Therefore, if additional packets arrive before the timer expires, they can be combined in a aggregate packet with the packet 118 provided that the total size does not exceed the maximum packet size.” (See column 7, lines 36-42) *Ketcham et al.* goes on and states that “[i]f the timer has not expired, the packet 120 can be aggregated with the packet 118. Until the timer expires or the payload of the aggregate packet is full, additional packets can be put into the aggregate packet. If the timer expires before any packets with a shared LLC destination are received, then the packet 118 is transmitted without being aggregated.” (See column 7, lines 46-52) Although *Ketcham et al.* discloses limitations on the packet aggregation techniques (e.g., combining the number of packets into a single aggregate packet or sending a single packet (not combined data segments as claimed) immediately), *Ketcham et al.* still only discloses using the expiration of a timer as the sole condition for sending at least a portion of the combined data segments. (See also column 5, line 53 to column 6, line 3)

Accordingly, it is respectfully submitted that claims 1, 17, 33, and 35 are patently distinct from *Ketcham et al.* Claims 1, 17, 33, and 35 are also patently distinct from *Buchholz et al.*, *Borella et al.*, *Mulligan*, and *Chapman et al.*

Claim 2 pertains to a method for combining data segments. Claim 2 has been amended to further clarify the limitation “establishing a flow,” which the Examiner suggested in the Office Action. Applicants have now clarified the limitation “establishing a flow” to mean “having a set of Syn, Syn-Ack, Ack, Fin, Fin-Ack and Ack data exchanges.” Claim 18 recites a similar limitation. In contrast, the cited art fails to teach or suggest these limitations. Therefore, it is

respectfully submitted that claims 2 and 18 are patently distinct from the cited art.

The Examiner's rejections of the dependent claims are respectfully traversed. However, to expedite prosecution, all of these claims will not be argued separately. Claims 3-16, 19-32, 34, and 36-39 each depend either directly or indirectly from independent claims 1, 2, 17, 18, 33, or 35 and, therefore, are respectfully submitted to be patentable over cited arts for at least the reasons set forth above with respect to claims 1, 2, 17, 18, 33, or 35. Further, the dependent claims require additional elements that when considered in context of the claimed inventions further patentably distinguish the invention from the cited art.

For example, claim 7 requires among other things "wherein the first condition is met when a data length of at least a portion of the combined data is less than or equal to a window size indicated by the second node, wherein a maximum portion of the combined data that will fit within the indicated window size is sent to the second node." (See Fig. 3A where server 306 indicates the window sizes of Win=75, Win=100, and Win=1000 in separate Ack's.) The cited art fails to teach or suggest having the second node indicate a window size.

SUMMARY

It is respectfully submitted that all pending claims are allowable and that this case is now in condition for allowance. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

If any fees are due in connection with the filing of this Amendment, the Commissioner is authorized to deduct such fees from the undersigned's Deposit Account No. 50-0388 (Order No. CISC208).

Respectfully submitted,
BEYER WEAVER & THOMAS, LLP



Desmund Gean
Reg. No. 52,937

P.O. Box 70250
Oakland, CA 94612-0250
Telephone: (510) 663-1100
Facsimile: (510) 663-0920

Application No. 09/872,989
CISC208/3890/MRO/DG

Page 13 of 13